

Message Text

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TO AMEMBASSY CANBERRA

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

AMEMBASSY TOKYO

USMISSION USUN NEW YORK

CINCPAC HONOLULU HI

C O N F I D E N T I A L STATE 090054

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CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS:PBOR, UN

SUBJECT: LOS: ARCHIPELAGO NEGOTIATIONS

REF: USUN 1380

1. AUSTRALIAN COUNSELOR MCKEOWN CALLED ON DEPTOFF AND
DEPT. GEOGRAPHER APRIL 30. MCKEOWN PROVIDED (1) WRITTEN
COMMENTS ON US ARCHIPELAGO PROPOSAL (WHICH WE HAD PREVIOUSLY
GIVEN TO MOTT (REFTEL)) AND (2) PAPER ON AUSTRALIAN VIEWS
ON ARCHIPELAGO ISSUE. MCKEOWN STATED THAT GOA CONCERNED
THAT U.S. PROPOSED DEFINITION OF ARCHIPELAGO DID NOT INCLUDE
ENTIRE PAPUA AND NEW GUINEA GROUP. ON SUBSTANCE OF
NAVIGATIONAL REGIME, GOA COULD ACCEPT U.S. PROPOSALS
ALTHOUGH IT DOUBTED THEIR ACCEPTABILITY BY INDONESIA AND
PHILIPPINES. MCKEOWN CONFIRMED THAT GOA PROPOSAL DOES NOT
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PROVIDE FOR SUBMERGED TRANSIT OF SUBMARINES OR OVERFLIGHT

AND APPLIES INNOCENT PASSAGE (REDEFINED) IN TRANSIT AREAS. MCKEOWN INDICATED HE BELIEVED GOA HAD ADOPTED THESE POSITIONS NOT FOR SUBSTANTIVE REASONS BUT BECAUSE THEY SEEMED MORE LIKELY TO BE ACCEPTABLE TO ARCHIPELAGO STATES. MCKEOWN STATED GOA HAS NOT PROVIDED ITS ARCHIPELAGO PAPER TO ANY OTHER COUNTRY AND DID NOT WISH TO INTERFERE WITH ON-GOING ARCHIPELAGO NEGOTIATIONS WHICH U.S. IS ENGAGED IN. HE MADE CLEAR, HOWEVER, THAT GOA ATTITUDE ON ITS INVOLVEMENT WOULD BE INFLUENCED BY WHETHER IT WAS KEPT FULLY INFORMED OF DEVELOPMENTS IN THESE NEGOTIATIONS. DEPTOFF ASSURED MCKEOWN USG WOULD KEEP GOA INFORMED AND PROMISED U.S. COMMENTS ON AUSTRALIAN ARCHIPELAGO PAPER IN NEAR FUTURE.

2. AUSTRALIAN COMMENTS ON U.S. ARCHIPELAGO PROPOSALS:
BEGIN TEXT:

ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGO STATE:

1) IT IS OUR UNDERSTANDING FROM OUR CONVERSATION WITH OXMAN THAT UNITED STATES ENVISAGED THAT THERE COULD BE SOME ISLANDS THAT NEED NOT BE INCLUDED WITHIN THE ARCHIPELAGIC BOUNDARY. HOWEVER, A CONCEPT THAT REQUIRED ALL ISLANDS TO BE INCLUDED WITHIN THE ARCHIPELAGIC BOUNDARY AND WHICH ALSO REQUIRED THE DUAL CRITERIA OF A LAND-TO-WATER RATIO AND MAXIMUM LENGTH OF ARCHIPELAGIC LINES WOULD EXCLUDE PAPUA NEW GUINEA FROM CLAIMING ARCHIPELAGIC STATUS AND WOULD NOT BE ACCEPTABLE TO AUSTRALIA.

GUARANTEES TO THE ARCHIPELAGIC STATE COVERING
ARCHIPELAGIC PASSAGE.

3(1) WE HAVE NO PROBLEM WITH THIS BUT WE DOUBT ITS ACCEPTABILITY TO INDONESIA AND THE PHILIPPINES IN PARTICULAR.

3(3) WE WOULD CONSIDER A FORMULA BASED ON ARTICLE 3 OF THE FIJIAN PROPOSALS INCORPORATED IN DOCUMENT SC2/L42 AS
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REASONABLE PARTICULARLY IF THE ARCHIPELAGIC STATES WERE TO CONCEDE A FORMULA FOR PASSAGE DERIVING FROM UNITED STATES PRINCIPLES 1 AND 4.

(4) SAME COMMENT AS TO 3(1).

5. QUERY WHETHER WORD "UNLESS" IS OMITTED BETWEEN WORDS "PASSAGE AREAS" AND "BECAUSE" IN THIRD LINE. END

TEXT.

3. AUSTRALIAN PAPER ON ARCHIPELAGOS:

BEGIN TEXT:

PROPOSED PRINCIPLES RELATING TO PASSAGE THROUGH
ARCHIPELAGOS.

A) THERE SHOULD BE AN ASSURED RIGHT OF PASSAGE WITHOUT
IMPEDIMENT, DISCRIMINATION OR NOTIFICATION FOR ALL
FOREIGN SHIPS TRAVELLING ON THE SURFACE THROUGH
ARCHIPELAGIC WATERS INCLUDING THROUGH STRAITS AT THE
ENTRANCES OR EXITS TO OR LYING WITHIN SUCH WATERS.

B) WHERE AN ARCHIPELAGIC STATE SO REQUIRES, THIS RIGHT
OF PASSAGE MAY BE CONFINED TO SEALANES ESTABLISHED BY
THE STATE THROUGH ITS ARCHIPELAGIC WATERS.

C) WHERE AN ARCHIPELAGIC STATE ESTABLISHES SEALANES IT
MUST DESIGNATE AN ADEQUATE NUMBER TO ENSURE THAT PASSAGE
BETWEEN TWO PARTS OF THE HIGH SEAS IS NOT UNDULY PROLONGED
AND IN RESPECT OF MERCHANT VESSELS THAT DUE ACCOUNT IS
TAKEN OF TRADITIONAL TRADE ROUTES.

D) IN DETERMINING THE WIDTH AND COURSE OF SEALANES
CONSIDERATION MUST BE GIVEN TO THE REQUIREMENTS OF SAFE
NAVIGATION AND THE NEED TO PROVIDE FREEDOM TO MANOEUVRE
AS RELEVANT TO TAKING PASSAGE.

E) WHERE NECESSARY IN THE INTERESTS OF SAFE NAVIGATION
AN ARCHIPELAGIC STATE MAY ESTABLISH TRAFFIC SEPARATION
SCHEMES WITHIN SEALANES. ANY SUCH TRAFFIC SEPARATION
SCHEMES SHOULD BE IN ACCORDANCE WITH INTERNATIONALLY
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AGREED STANDARDS AND PRACTICES.

F) WITHIN SEALANES AND TRAFFIC SEPARATION SCHEMES AN
ARCHIPELAGIC STATE MAY MAKE AND ADMINISTER LAWS AND
REGULATIONS GOVERNING PASSAGE. THESE LAWS AND REGULATIONS
SHALL BE IN ACCORDANCE WITH INTERNATIONALLY AGREED
STANDARDS AND PRACTICES RELATING TO:

1. SAFETY OF NAVIGATION AND REGULATION OF MARINE TRAFFIC;
2. UTILIZATION OF NAVIGATION AIDS AND FACILITIES;
3. FACILITIES CONCERNED WITH THE EXPLORATION AND
EXPLOITATION OF RESOURCES;

4. DAMAGE TO SUBMARINE OR AERIAL CABLES AND PIPELINES;
5. PRESERVATION OF THE MARINE ENVIRONMENT;
6. MARINE RESEARCH;
7. THE INFRINGEMENT OF DOMESTIC LAWS.

G) WITHIN ARCHIPELAGIC WATERS OUTSIDE SEALANES AND TRAFFIC SCHEMES AN ARCHIPELAGIC STATE MAY MAKE AND ADMINISTER SUCH LAWS AND REGULATIONS AS IT SEES FIT.

H) FOREIGN SHIPS EXERCISING THE RIGHT OF PASSAGE THROUGH ARCHIPELAGIC WATERS:

1. MUST MAKE A CONTINUOUS PASSAGE, MANOEUVERING ONLY AS NECESSARY FOR SAFE NAVIGATION OR TO MEET AN EMERGENCY;
2. MUST NOT CARRY OUT ANY HOSTILE ACT AGAINST THE ARCHIPELAGIC OR ANY THIRD STATE;
3. MUST CONFORM TO THE LAWS AND REGULATIONS GOVERNING PASSAGE MADE BY THE ARCHIPELAGIC STATE.

I) AN ARCHIPELAGIC STATE MAY REQUIRE SHIPS WITH SPECIAL CHARACTERISTICS - AS AGREED BY AN APPROPRIATE INTER-CONFIDENTIAL

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NATIONAL AUTHORITY - TO FOLLOW DESIGNATED SEALANES AND CONFORM TO TRAFFIC SEPARATION SCHEMES APPROPRIATE TO THEIR SPECIFIC CHARACTERISTICS, AND TO PROVIDE NOTIFICATION OF PASSAGE IF THE ARCHIPELAGIC STATE SO REQUIRES.

J. AN INTERNATIONAL TRIBUNAL SHOULD BE ESTABLISHED TO ADJUDICATE IN CASES OF DISPUTE ARISING OUT OF THE FOREGOING.

K. THE INTERNATIONAL TRIBUNAL SHOULD BE EMPOWERED TO IMPOSE PENALTIES, INCLUDING THE SUSPENSION OF PASSAGE RIGHTS FOR SHIPS WHICH CONTRAVENE THE PROVISIONS OF THESE ARTICLES OR THE LAWS AND REGULATIONS OF THE ARCHIPELAGIC STATE. END TEXT.

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